



Memorandum

Development Services

DATE: December 16, 2004

TO: Mayor and City Council

FROM: Lusia Galav, AICP, Deputy Development Services Manager
Steve Venker, Planning & Zoning Manager
Ryan Levesque, Planner I

SUBJECT: Special IRS on the Draft Zoning and Development Code

This is a continuation of previous discussion on the proposed Zoning and Development Code, for the purpose of receiving comments and direction from City Council.

Mayor and Council directed staff to place the Zoning and Development Code on each upcoming IRS agenda until City Council has finished its detailed review. Public input would be allowed beyond the usual three-minute time limit. Staff and members of the Planning and Zoning Commission will be available to provide information to, and answer questions from, City Council.

COUNCIL DIRECTION REQUESTED:

Staff requests the Mayor and Council provide direction on the remaining issues identified in Exhibit A.

ATTACHMENTS:

- Exhibit A:** Zoning and Development Code - Remaining Issues
- Exhibit B:** Public Input to City Council - (Dec. 9, 2004)
- Exhibit C:** Appendix of Retail Uses

Exhibit A

ZONING AND DEVELOPMENT CODE - REMAINING ISSUES

Issue	Planning Commission Recommendation	Public Input To City Council	Staff Recommendation
Accessory Buildings Sec. 3-401(C) <i>Page 3-17</i>	Max. height of existing residence; meet the setbacks of the district; a use permit is required		DELETE the requirement for a use permit .
Accessory Dwelling Units Sec. 3-402 <i>Page 3-18</i>	Use permit required in Multi-Family Districts only; Allowed when a single-family residence exists; Shall not exceed 20% of the main residence; Does not count toward allowable density.	Concerned it does not count against density; Concerns with crime in the alleys.	Agree with Planning and Zoning Commission recommendation.
Bee Hives Sec. 3-404(C) <i>Page 3-22</i>	Minimum 1000' from dwellings, property lines, a streets or bridle path; a use permit is required		Retain current ordinance separation requirements 200' from a dwelling, 50' from property lines, and 150' from street or bridle path; a use permit is required.
Guest Quarters Sec. 3-411 <i>Page 3-26</i>	Intended to house guests of the resident; Shall not be rented independently from the main building; Use Permit required for single-family districts; Minimum 220 sq. ft. floor area.	No Guest Quarters in single family; Concerned of potential undocumented rental housing; Appearance of ADUs; No separate meters; no alley access; Review stipulations.	Agree with Planning and Zoning Commission recommendation.
Home Occupation Sec. 3-412 <i>Page 3-27</i>	Same provisions as allowed in current ordinance; Reduced hours (7 to 8 p.m.); May allow outside employee with a Use Permit; New definition of family; List of prohibited uses, such as car repair, including any sale of commodities on site.	Concerned with administrative review, permitted in all residential dwellings, potential manufacturing; Require Use Permit; Unlimited family members; Identify permitted and prohibited uses; Parking.	Agree with Planning and Zoning Commission recommendation.
Live-Work Sec. 3-414 <i>Page 3-29</i>	Allow Live-Work in Multi-Family w/ Use Permit; Allow up to 2 outside employees.	Same concerns as Home Occupations.	Agree with Planning and Zoning Commission recommendation.

Issue	Planning Commission Recommendation	Public Input To City Council	Staff Recommendation
R1-PAD & PAD Overlay Sec. 4-202 <i>Page 4-6</i> Sec. 5-402(B) <i>Page 5-10</i>	R1-PAD no minimum lot size; PAD Overlay no minimum lot size, not for individual detached single-family dwelling	Do not provide size limitations for use of the R1-PAD and PAD Overlay; Needs neighborhood support for request	Agree with Planning and Zoning Commission recommendation based on input.
Multi-Family Districts Table 4-202B <i>Page 4-7</i> Table 4-603E <i>Page 4-34</i>	R-4 District: Landscape area 25% (from 30%) R-5 District: Landscape area 25% Density 30 du/ac Multi-Family parking: Guest, 0.2 spaces per unit 1 Bed, 1.5 spaces per unit 2 Bed, 2 spaces per unit 3 Bed, 2.5 spaces per unit 4 Bed, 3 spaces per unit	Reduce R-4 District landscape requirement from 25% to 15-20%; R-5 District, reduce landscape from 25% to 10% and allow 40 du/ac; Reduce parking ratios for urban core and access to mass transit; Reduce CPTED standards and make flexible.	Agree with Planning and Zoning Commission recommendation.
Low Water Use Landscape for Subdivisions under 10 ac. Sec. 4-702(B) <i>Page 4-40</i>	Additional exception for residential subdivisions under 10 acres for common areas intended for active recreational use		DELETE the exception for subdivision common areas under 10 acres, which would allow 100% water intensive landscape.
Signs:			
Boutique Signs Sec. 4-903(C) <i>Page 4-63</i>	In-home use not for profit; Maximum of 4 signs; Maximum size 3 s.f. in area and 3 feet in height.	Not allow in multi-family districts; Require a Use Permit; Concerns of use with Churches; Parking issues.	Currently allowed; Has not been a major issue to date. Agree with Planning and Zoning Commission recommendation.
Freestanding Identification Signs Sec. 4-903(I) <i>Page 4-65</i>	- Single use buildings and centers less than 10 acres: max. 32 sq. ft. sign area and 8' height, max. 4 tenants per sign face - Centers 10 acres or greater: max. 40 sq. ft sign area and 10' height, max 6 tenants per sign face	Balance concerns within the community that these signs should not get too big and businesses wanting adequate size; Concerns with Freeway signs	- Single use buildings and centers less than 10 acres reduce to 24 sq. ft. in area. Provides consistency for existing centers -Centers 10 acres or greater reduce to 32 sq. ft. in area

Issue	Planning Commission Recommendation	Public Input To City Council	Staff Recommendation
Lead-In Signs Sec. 4-903(M) <i>Page 4-67</i>	Traffic direction for sale/rental units; Maximum of 4 signs; Maximum 3 feet in height and 3 s.f. in area.	Recommend such signs increase to 9 s.f. in area and a maximum 4 feet in height.	Agree with Planning and Zoning Commission recommendation.
Significant Event Signs Sec. 4-903(R) <i>Page 4-70</i>	Limited to 1 per year for up to 14 consecutive days; May include banners, pennants, spinners, balloons, flags, and inflatable signs	Events need 4-7 days prior for notification of event; Arizona Multi-housing Association recommends such events be allowed 4 time per year.	Currently not allowed unless approved by Special Events Committee; 1 per year is less of an impact to community. Agree with Planning and Zoning Commission recommendation.
Marquee Signs Sec. 4-903(U) <i>Page 4-72</i>	One freestanding sign per street frontage; Maximum 8 feet in height and 24 s.f. in area.	Allow signs larger in height and area (32 s.f.); List theater marquee signs separate from churches; Create a committee to evaluate signage issues.	Agree with Planning and Zoning Commission recommendation.
Process:			
Preliminary Review Process Sec. 6-202(A) <i>Page 6-5</i>	Provide a preliminary review conference within 20 business days of application submittal.		Recommend removing quantitative time limitations for such review.
Specific Plans Sec. 6-303 <i>Page 6-14</i>	This section has been reserved.	How will the city address this item; What are the fees?	Consultant hired through Neighborhood Advisory Committee to draft language on process; Opportunity for public comment will be available.
Use Permits Sec. 6-308 <i>Page 6-20</i>	Minor Use Permit's based on the Manager's decision to process either to the Hearing Officer or Board of Adjustment		Recommend creating a clear process path, where Hearing Officer is the decision-making body
Variances Sec. 6-309 <i>Page 6-23</i>	Allowing a Manager's decision for process with either the Hearing Officer or Board of Adjustment		Recommend creating a clear process path, where Hearing Officer is the decision-making body

Issue	Planning Commission Recommendation	Public Input To City Council	Staff Recommendation
Public Meetings for Design Review Sec. 6-403 <i>Page 6-28</i>	Intended to receive input from the public; Requires a posted notice at least 24 hours prior to meeting.	Intended to gather public input; Does not require advertising and posting; Development Plan Review are public meetings, should need hearing.	If the project meets Development Code requirements, project does not need public notification; Complies with State requirements; Meetings are the Design Review Board
Appendix and Other Issues:			
Appeal Fees Appendix H. <i>Page H-1</i>	Current zoning fees included in appendix.	Needs updating; Recommendation for applicants who win their appeal would allow for a refund; Reduction in fees for other redevelopment areas.	All development fees are under review by TATR Committee; Cost of fees applies to coverage for processing costs, refund not recommended.
Retail Permitted Uses New Appendix (Attachment C) Sec. 3-202 <i>Page 3-9</i>	CCR, C-1 and C-2 Districts combined into CSS District; Simplified the allowed uses under Sec. 3-202	Reinstate Use Permit requirement for C-2; List acceptable uses for retail.	Blanket use permit for one commercial district creates an unbalanced level with other districts; Appropriate businesses are identified for a use permit; Staff has proposed adding a list of permitted retail/services in the appendix.
Sustainability-Urban Heat Island Effect	Applicable sections: Sec. 4-602(B), <i>page 4-29</i> Sec. 4-603, <i>page 4-31</i> Table 4-603E, <i>page 4-33</i> Sec. 4-704(A), <i>page 4-42</i>	Incorporate sustainability; Concerns there are no provisions for reducing the Urban Heat Island Effect.	Proposed Code heat island mitigations: Reduced parking requirements; Create parking maximums; More landscape for parking lots; Allow for alternative paving materials.

Exhibit B

PUBLIC INPUT TO CITY COUNCIL – (DECEMBER 9, 2004)

City of Tempe Zoning

Accessory Dwellings & Guest Quarters

p3-19 3-402 E. Accessory Dwellings do not count against density.
Why?

Guest Quarters also do not count towards density.
Accessory Dwellings are not allowed in SFR however Guest Quarters are. Do not allow Guest Quarters to become the Undocumented Rental Housing future for Tempe. Please review the stipulations and protect our SFR neighborhoods.

p3-5 Table 3-102 Permitted Land Uses in Residential Districts
Guest Quarters in SFR, NO!!!!!!
Accessory Dwellings in disguise!!

We thought we won the battle to not have Accessory Dwellings in SFR, but actually we lost the war with this covert attempt to put in more dwellings in SFR while again not counting them against density. Do not ruin our neighborhoods with density and uncontrollable rental properties!

p3-26 3-411 Guest Quarters “may provide cooking facilities.”
Strongly Recommend Against in SFR. At the minimum; no cooking, no alley access, no separate utility meters.
Consider it a truly guest sleeping quarters, bath okay. This is a Pandora’s Box for our SF neighborhoods!!
Accessory Dwellings in disguise!!

p4-22 E. Number of Access Points
1. There is no restriction on the number of access points to alleys for SFR. Do not want Guest Quarters accessed through alleys. Rental opportunities.

Permitted Land Uses

p3-9 Table 3-202A

Uses - Retail Sales (bottom of page)

Any and All Retail Sales Permitted in Any and All Commercial Districts
No Use Permit needed.

Our C2 shopping center, South/East corner Scottsdale and McKellips case in point! No use permit needed. No neighborhood notification or involvement.

Recommendation:

- 1. Reinstate Use Permit Requirement.**
- 2. List acceptable uses and add new acceptable uses.**
Without this, it could create a serious problem.

Home Occupations & Live Work

p3-27 3-412 Home Occupations are permitted subject to administrative review. Arbitrary? Should require a Use Permit.

Permitted in all residential dwellings.
Accessory Dwellings too!!

Manufacturing of goods a concern.

p3-28 3-412 C1. Unlimited # of family members could be employed.
How is this enforced? Limitations should be imposed.
Should require a Use Permit where limitations may be set.

p3-28 G. Prohibited uses.
Need to list acceptable uses and add new acceptable uses, to not lose control of this.

p3-29 3-414 Live Work
Same concerns as with Home Occupations.

p3-24 3-406 Boutique
Must be held in enclosed quarters. Not to use parking lot?
What about Church carnival/boutique, and other fund
raisers? This must be an oversight!

p4-70 4c. Special Event Banners may not be displayed until the day(s) of the special event. Does this make sense? Should be allowed 4-7 days prior for advertising. Too restrictive.

Public Meetings & Public Hearings

- p6-8 **6-205 Public Meeting Application Review Procedure**
Quote: “A Public meeting is held to gather input from the community but does not require advertising or posting of the specific property.” How does the community find out about the meeting? Only requirement is a posting at City Hall for 24hrs prior to a Public Meeting. Public Meetings are not designated as only information gathering meetings but as meetings where decisions can be made. Need to revisit the intent and to correct this.
- p6-28 **6-403 Notice for Public Meetings**
Agenda will be posted at City hall for 24 hours prior to such meetings. Is this it, for notification for Public Meetings?
- p6-17 **6-306 Development Plan Review**
C. Procedure.
MAJOR DEVELOPMENT PLAN REVIEWS require a Public Meeting not a Public Hearing. This applies both to P&Z and RRC proceedings. This is not proper! Needs to be a Public Hearing.
- p6-4 **Table 6-101A Applications by Decision Body and Type of Procedure**
Table is very Confusing!!! Arbitrary?? Appeals
Confusing!! Need to list P&Z appeal paths separately from RRC appeal paths. List first appeal as A and final appeal as FA. Column for Neighborhood Meetings is included.
Add 2 more columns to show which application requires a Public Meeting and which requires a Public Hearing?

Specific Area Plans

- p6-14 **Section 6-303 Specific Plan {reserved} BLANK**
What is the city’s plan to readdress this? Can the issues be resolved? What are the fees for this plan?

Signs

p4-72 U3b Theater Marquee sign, Maximum height 8ft, area max 24sq ft. Height should be higher, area larger. Other freestanding signs in code can be 32sq ft. Case in point Tempe Cinemas on Elliot and McClintock, \$2 cinema needs sign visibility. This theater is a valuable asset to our Tempe community. Let's support our commercial businesses with realistic signage.

****List theater marquee signs separate from churches.**

Recommendation:

Create a temporary committee to review, evaluate and make recommendations concerning Tempe's commercial signage issues. The committee should consist of seven members. including a member of Tempe's Chamber of Commerce, a representative of the Redevelopment community, a member of the Board of Adjustment, a member of Tempe's Development Services and three citizens.

Appendix H. Fee Schedule

50% reduction in fees is available for certain uses in Apache Blvd Project Area. Could this be used in other approved Redevelopment areas to encourage the preferred and needed services of a community?

- b. Zoning Administrator Opinions -only? Should this be updated?**
- n. What defines a Neighborhood Revitalization Area?**

Appeal Fee Recommendation

Appeal Fees, for SFR and others who wins their appeal, should be considered as refundable with a recommendation from Appealing entity. Some applications can be appealed twice with the city collecting fees each time. This can triple application fees. If the applicant did not do a good job of preparing the initial application and substantial, additional information it brought forth in appeal then the appeal fee should stand. Please open discussion regarding Appeal fees.

Miscellaneous Items

p1-4 Eb. Citations should be sent by certified mail.

p1-13 Where is the Apache Blvd Redevelopment Map?
It used to be included in code. An oversight?

p3-4 Table 3-102 Permitted Land Uses in Residential Districts
Referenced 3-404 does not address small animals.
5 aviaries? Penned chickens?

p4-44 4-706 A. 2 Maximum Wall height 10ft. Thought this was
8ft. maximum.

Section 4-603 Parking Maximums

I am concerned that this will be an issue as Tempe's
residential base grows. What are Tempe's long range plans
to address parking? Commercial and Event parking need
to be addressed. Dust problems with Event parking has
become a great problem and concern.

p5-2 Figure 5-102 Rio Salado Overlay District Boundary Map.
Rolling Hills Golf Course included in these boundaries. The
community will not support redevelopment of the golf
course further into Papago Park.

p6-19 6-307 Subdivisions, Lot Splits and Adjustments
Nothing about Lot assemblage of 2 lots? Check out
Definition of a lot.

p7-14 Definition of "Lot"
2 contiguous parcels may be built upon as one lot with only
a lot-tie affidavit recorded through the Development
Services Department. No notice is given to neighbors!
Lot assemblage without notice.----

Errors

Index at back of the book has incorrect pages listed.

Examples: Abatement listed as on page 6-22 actually on 6-24.

Fee Schedule listed as Appendix G, actually Appendix H.

Others were found- need to review all.

Respectfully submitted by

Darlene Justus

480-946-2186 d_justus@cox.net

December 9, 2004

Mr. Mayor & Members of the Council

Thank you for taking the time and giving interest to the Zoning rewrite. Reading and understanding it is a burdensome undertaking. You will read not only the page but several other pages of definitions and specs pertaining to the page, for instance, what is a "family".

Bear with me, I will review some of the history of the Zoning rewrite efforts. Although not on the list, certainly talks by staff and others took place prior to the official February 2001 start date. At that time our ex, now discredited, planning director and a resident of Chandler as staff. They formed the Citizens Advisory Commission in February, 01. This lopsided group consisted solely of speculator/developers, architects, zoning lawyers, planners, and others with a financial interest in the Code. And of course, they hired a carpet-bagger out of Portland and Denver to write the original draft and act as facilitator at the meetings.

A whole year later, by public demand, 3 members of the public were appointed to the CAC. 2 of those have been active in critiquing the Rewrite. The 3rd has not been active since, and to quote another influential neighbor, they got what they wanted, namely the fact that ADU's do not count towards density. No further help came from that area.

The plan had been written before February, 01 so the 2 of us had little influence on the result. The facilitator/carpet bagger had the habit of ignoring or obfuscating questions raised by the 2 remaining neighbors. The resulting Code in front of you chases profits at the expense of our community.


At your public appearances during various election campaigns each of you decried the deterioration of our housing stock and pledged to help the neighborhoods. Now is your chance to protect our residential areas from commercial exploitation by those wishing to profit from the misery of others. We must start somewhere if we are to regain the community that was Tempe. Send it back to delete the commercialization of our homes by more speculators without conscience.



CAPITOL CONSULTING, LLC
PROVIDING POLITICAL SOLUTIONS

MEMORANDUM

TO: Tempe City Councilmembers

FROM:  Suzanne B. Gilstrap
AMA Government Affairs Consultant

RE: Comments on Proposed Zoning & Development Code

DATE: December 9, 2004

This memorandum is written on behalf of the Arizona Multihousing Association (AMA), the statewide trade association for the rental housing industry representing in excess of 200,000 units statewide. First, we would like to compliment the work of the Zoning Ordinance Focus Group Members, staff and others that have contributed to this monumental task over the past two years.

AMA members have reviewed the sign code provisions in detail, and while there is agreement with most of the proposed re-write, there are some concerns relative to certain provisions contained in Chapter 9 – Signs. There are some additional concerns related to density, landscape, parking and CEPTED requirements for multi-family.

The AMA respectfully requests that the following items of concern relative to the sign code and multi-family districts be given consideration.

Signs

1. **Boutique Directional Signs** Current law does not expressly allow the use of boutique signs in Multi-Family districts nor does it exclude them.

The proposed ordinance as shown in “Table 4-903A Permitted signs: specifies that Boutique Directional signs are allowed in Multi-Family Districts. This provision limits a property owner’s discretion and automatically allows signage for a boutique business. **We request that Boutique Directional Signs not be allowed in multi-family districts, or alternatively, require use permits for boutiques in multi-family districts subject to written permission of the property owner or manager.**

2. **Lead-In-Signs** Section 4-903M of the proposed ordinance provides for use of lead-in-signs which are defined as “a temporary portable sign used to direct pedestrian or vehicular traffic to a home (or residential unit that is for sale or rent”. The maximum height for a lead-in sign is three (3) feet with the maximum area limited to three (3) feet and no more than four (4) such signs.

The AMA requests change to the size requirement for lead-in-signs to allow nine (9) square feet not more than four (4) feet in height.

3. **Special Event Signs** Section 4-903S allows for the use of significant event signs to one event per year for up to fourteen consecutive days.

The AMA recommends that special event signs be allowed four times per year for up to fourteen consecutive days.

**Development Standards for Multi-Family Districts
(Density, Parking, Landscape & CEPTED Requirements)**

There are two features in the proposed ordinance that do not reflect the evolving nature of the apartment industry and contradict the stated goal of promoting smart growth through infill redevelopment: 1) the relationship between Density and Lot Coverage and 2) Parking requirements. The proposed development and parking standards offer modest improvements over the current ordinance, however, save for the welcomed elimination of the RV Parking space requirements (most contemporary communities opt to ban on-site parking of RV Vehicles), the proposed standards do not take into account the changes we are seeing in market demand driven planning for in-fill multifamily rental housing.

The apartment industry has been successfully building and marketing communities with densities using two story building designs at up to 30 DUs/GA and up to 43 DUs/GA with three story building designs, however, the usable open space provided (normally a substantial portion of the landscape area) typically ranges between 5 and 10% of net lot area and our parking ratios typically range between 1.6 and 1.75 spaces per unit.

The addition of an R-5 category allowing 30 DU/GA density is positive as the current ordinance limits densities to a maximum of 24 DU/GA although we believe the cap should be increased to capitalize on redevelopment opportunities in more urban core areas. The unfortunate reality is that with minimum landscape standards of 25% of net lot area for both the R-4 and the R-5 Districts combined with the parking requirements in Table 4-603E (which are more appropriate for a suburban lower density product type) makes it essentially impossible to achieve these densities with two-story building designs. Unfortunately, at 30 DUs/GA, the incremental cost to go to a three story building configuration is not off-set sufficiently by the allowed density. Also, why would both the R-4 and the R-5 districts warrant the same landscape area requirements?

Lastly, some of the more stringent standards in the current CEPTED program are still required in the proposed ordinance, although, having them administered by DSD makes the plan approval process more manageable for developers. The landscape and lighting standards, while effective at addressing perceived safety concerns, create numerous design conflicts for multi-family residential communities and it's unclear as to the incremental benefits achieved by these standards.

While, some of these limitations can be addressed by using one of the MU Districts, not all sites will support high density residential mixed-use projects. Mixed use projects are also more challenging to develop, to finance, and, are beyond the expertise of many multi-family developers.

Recommendations:

1) Reduce the required landscape area in R-4 Districts from 25% to 15 or 20% and in R-5 Districts from 25% to 10% and increase the allowed density to 40 DU/GA; 2) Reduce parking ratios for projects located within urban core areas and sites readily accessible to mass transit; and, 3) Reduce some of the CEPTED standards or create more flexibility with regard to the application of these standards so that they do not undermine other planning objectives.

Exhibit C

APPENDIX OF RETAIL USES

APPENDIX _ . GENERAL RETAIL AND SERVICE LAND USES

RETAIL SALES

1. Appliance store
2. Athletic goods
3. Automobile parts store
4. Bakery
5. Bicycle store
6. Bookstore
7. Candy store
8. Carpet and floor covering store
9. Clothing store
10. Computer sales, computer parts
11. Delicatessen
12. Department store
13. Drugstore
14. Electronic equipment store
15. Fabric store
16. Florist and indoor plant sales
17. Furniture store
18. Gift shop
19. Grocery store
20. Gun shop
21. Health club
22. Health food store
23. Hardware store
24. Hobby/toy store
25. Home improvement store
26. Household goods, appliances, fixtures
27. Ice cream store
28. Import store
29. Jewelry sales
30. Liquor store
31. Music store
32. Newsstand
33. Optical goods / optician
34. Plant Nursery
35. Pet store
36. Rental business and/or personal articles
37. Sporting goods store
38. Stationery store
39. Swimming pool supply store
40. Tire store
41. Variety store
42. Video rental/sales

SERVICES

43. Ambulance dispatch
44. Bicycle repair / service
45. Broadcasting station, radio/TV studio, excluding transmitting towers.
46. Catering establishment
47. Cleaning service, excluding industrial
48. Computer repair & related services
49. Delivery and express offices
50. Dressmaker
51. Dry cleaning, excluding industrial
52. Laundromats, excluding industrial
53. Massage techniques
54. Mortuary
55. Motion Picture studio
56. Pest control
57. Photographic
58. Printing
59. Radio / TV studio
60. Repair of small appliances, electronics
61. Research and development
62. Shoe repair
63. Sun tanning salon
64. Spa
65. Tailor
66. Taxi dispatch
67. Taxidermist
68. Travel agent